

FILED

07 NOV 21 PM 2:13

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

1 GUILLERMO MARRERO (Bar No. 099056)
(gmarrero@ipglaw.com)
2 JOSHUA J. RICHMAN (Bar No. 243147)
(jrichman@ipglaw.com)
3 **INTERNATIONAL PRACTICE GROUP**
A Professional Corporation
4 1350 Columbia Street, Suite 500
San Diego, California 92101
5 Tel (619) 515-1480
Fax (619) 515-1481

6
7 Attorneys for Defendant
SEA WORLD, INC.

8 UNITED STATES DISTRICT COURT FOR THE
9 SOUTHERN DISTRICT OF CALIFORNIA

07 CV 2227 WQH (POR)

10 ADAM CANTER,

CASE NO.

11 Plaintiff,

12 **NOTICE OF REMOVAL TO FEDERAL
13 COURT**

14 v.

15 SEA WORLD, INC.,

Defendant.

16 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

17 PLEASE TAKE NOTICE that defendant SEA WORLD, INC. ("Defendant"), hereby
18 removes to this Court the state court action described below pursuant to 28 U.S.C. §§1441 and
19 1446 and Federal Rule of Civil Procedure §81(c).

20 1. This action is a civil action of which this Court has original jurisdiction under 28
21 U.S.C. §1332, and is one which may be removed to this Court by Defendant pursuant to 28
22 U.S.C. §1441(b) in that it is a civil action between citizens of different states and the matter in
23 controversy exceeds the sum of \$75,000, exclusive of interest and costs.

24 2. On September 26, 2007, an action was commenced by Plaintiff Adam Canter
25 ("Plaintiff") by his filing a complaint in the Superior Court of the State of California, County of
26 San Diego, entitled *Adam Canter v. Sea World, Inc.* (Case No. 37-2007-00075694-CU-PO-CTL)
27 (the "Complaint").

28 3. The first date upon which Defendant received a copy of the Complaint was

-1-

NOTICE OF REMOVAL TO FEDERAL COURT

1 October 3, 2007, when Defendant was served with a summons (the "Summons") and a copy of
2 the Complaint. A copy of the Summons and Complaint is attached hereto as Exhibit A.

3 4. Defendant was at all times relevant to the Complaint, and still is, a corporation
4 incorporated under the laws of the State of Delaware. Defendant's principal place of business is
5 in the State of Florida. (Declaration of Joshua J. Richman ("Richman Decl.") ¶ 2.) Defendant is
6 therefore not a citizen of the State of California.

7 5. Defendant is informed and believes that Plaintiff was at all times relevant to the
8 Complaint, and still is, a citizen of the State of California.

9 6. At the time the Complaint was filed, removability was uncertain because the
10 Complaint does not allege an amount in controversy (See Exhibit A, Complaint.) On October 15,
11 2007, and pursuant to California Code of Civil Procedure §425.11, counsel for Defendant caused
12 to be served on Plaintiff a Request for Statement of Damages to determine the dollar amount
13 Plaintiff is claiming in this lawsuit. (Richman Decl. ¶ 3.) Plaintiff returned to Defendant a
14 Statement of Damages on October 23, 2007, indicating a general and special damages demand in
15 excess of \$75,000. (Id.) A copy of the Statement of Damages is attached hereto as Exhibit B.

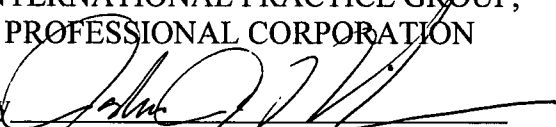
16 7. Defendant filed an answer in state court on October 31, 2007 (the "Answer"). A
17 copy of the Answer is attached hereto as Exhibit C.

18 8. Copies of all process, pleadings and orders served on Defendant are appended to
19 this Notice of Removal as required by 28 U.S.C. §1446.

20 9. Removal is timely under 28 U.S.C. §1446(b) because Defendant first ascertained
21 that this case was removable on October 23, 2007.

22 Dated: November 21, 2007

23
24 INTERNATIONAL PRACTICE GROUP,
A PROFESSIONAL CORPORATION

25 By 
26 GUILLERMO MARRERO
27 JOSHUA J. RICHMAN
28 Attorneys for Defendant SEA WORLD, INC.

Fax sent by : 314 577 3165

AB HRSC

10-10-07 09:27

Pg: 5/14

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Sea World, Inc. and Does 1-10

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Adam Carter

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

JUDGE 14

STP 20 PM 1:57

CLERK OF COURT
SAN DIEGO COUNTY, CA

SUM-100

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

Central Branch

330 West Broadway, San Diego, CA 92101

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Steven M. O'Neal (Bar # 62315)

Phone No.: (619) 239-0500

Law Office of Steven M. O'Neal

R. Vela

Fax No.: (619) 233-4516

2044 First Avenue, Suite 200, San Diego, CA 92101

DATE:

(Fecha)

SEP 28 2007

Clerk, by:

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación, use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify): **SEA WORLD, INC.**

under: ☒ CCP 416.10 (corporation)☐ CCP 416.20 (defunct corporation)☐ CCP 416.40 (association or partnership)☐ other (specify):

- ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)☐ CCP 416.70 (conservatee)☐ CCP 416.90 (authorized person)

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Steven M. O'Neal (State Bar # 62315) Law Office of Steven M. O'Neal 2044 First Avenue, Suite 200 San Diego, CA 92101 TELEPHONE NO: (619) 239-0500 FAX NO. (Optional): (619) 233-4516 E-MAIL ADDRESS (Optional): soneal@oneal-law.com ATTORNEY FOR (Name): Adam Canter, Plaintiff		FOR COURT USE ONLY 2007 SEP 25 PM 1:56 CLEARING HOUSE COURT SAN DIEGO COUNTY, CA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central		
PLAINTIFF: Adam Canter DEFENDANT: Sea World, Inc.		
<input checked="" type="checkbox"/> DOES 1 TO 10		
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input checked="" type="checkbox"/> OTHER (specify): Negligence, Premises Liability <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER: 37-2007-00075694-CU-PO-CTL

1. Plaintiff (name or names): Adam Canter

alleges causes of action against defendant (name or names): Sea World, Inc.

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5

3. Each plaintiff named above is a competent adult

a. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

b. ☐ except plaintiff (name):

- (1) ☐ a corporation qualified to do business in California
- (2) ☐ an unincorporated entity (describe):
- (3) ☐ a public entity (describe):
- (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
- (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

PLD-PI-001

SHORT TITLE: Canter vs. Sea World, Inc.	CASE NUMBER:
------------------------------------------------	--------------

4. ☐ Plaintiff (name):

is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person

a. ☒ except defendant (name): Sea World, Inc.(1) ☐ a business organization, form unknown(2) ☒ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):c. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):b. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):d. ☐ except defendant (name):(1) ☐ a business organization, form unknown(2) ☐ a corporation(3) ☐ an unincorporated entity (describe):(4) ☐ a public entity (describe):(5) ☐ other (specify):☐ Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a. ☒ Doe defendants (specify Doe numbers): 1-10 were the agents or employees of other named defendants and acted within the scope of that agency or employment.b. ☒ Doe defendants (specify Doe numbers): 1-10 are persons whose capacities are unknown to plaintiff.7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

a. ☒ at least one defendant now resides in its jurisdictional area.b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.d. ☐ other (specify):9. ☐ Plaintiff is required to comply with a claims statute, anda. ☐ has complied with applicable claims statutes, orb. ☐ is excused from complying because (specify):

PLD-PI-001

SHORT TITLE: Canter vs. Sea World, Inc.	CASE NUMBER:
------------------------------------------------	--------------

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. ☐ Motor Vehicle
- b. ☒ General Negligence
- c. ☐ Intentional Tort
- d. ☐ Products Liability
- e. ☒ Premises Liability
- f. ☐ Other (*specify*):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☐ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☐ property damage
- f. ☒ loss of earning capacity
- g. ☐ other damage (*specify*):

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☐ punitive damages

The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☐ The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date: September 24, 2007

Steven M. O'Neal

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001(2)

SHORT TITLE:

Canter vs. Sea World, Inc.

CASE NUMBER:

FIRST
(number)**CAUSE OF ACTION—General Negligence**Page 4ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN- 1. Plaintiff (name): Adam Canter

alleges that defendant (name): Sea World, Inc.

☒ Does 1 to 10

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): August 5, 2007

at (place): Performance Stage seating and viewing area, Sea World, San Diego, CA

(description of reasons for liability):

Owners or possessors of land have a duty of care to protect guests and invitees from reasonably foreseeable criminal or tortious conduct of third persons on the premises. Defendant sold beer to guests who became intoxicated at Sea World. Before stage show performance, Defendant negligently and carelessly failed to exercise control over intoxicated guests, failed to take reasonable steps to protect plaintiff and other guests from the tortious criminal acts of a third party. Defendant knew or should have known that the crowd was becoming unruly and violent and that the likelihood of injury to patrons was foreseeable unless steps were taken to control the drunken unruly and violent guests. Plaintiff sustained physical injury when he was attacked and thrown to the ground by a drunk and disorderly guest.

PLD-PI-001(4)

SHORT TITLE:

Canter vs. Sea World, Inc.

CASE NUMBER:

SECOND

(number)

CAUSE OF ACTION—Premises LiabilityPage 5ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

Prem.L-1. Plaintiff (name): Adam Canter

alleges the acts of defendants were the legal (proximate) cause of damages to plaintiff.

On (date): August 5, 2007 plaintiff was injured on the following premises in the following fashion (description of premises and circumstances of injury):

Owners or possessors of land have a duty of care to protect guests and invitees from reasonably foreseeable criminal or tortious conduct of third persons on the premises. Defendant sold beer to guests who became intoxicated at Sea World. Before stage show performance, Defendant negligently and carelessly failed to exercise control over intoxicated guests, failed to take reasonable steps to protect plaintiff and other guests from the tortious criminal acts of a third party. Defendant knew or should have known that the crowd was becoming unruly and violent and that the likelihood of injury to patrons was foreseeable unless steps were taken to control the drunken unruly and violent guests. Plaintiff sustained physical injury when he was attacked and thrown to the ground by a drunk and disorderly guest.

Prem.L-2. ☒ **Count One—Negligence** The defendants who negligently owned, maintained, managed and operated the described premises were (names): Sea World, Inc.

☒ Does 1 to 10

Prem.L-3. ☐ **Count Two—Willful Failure to Warn** [Civil Code section 846] The defendant owners who willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity were (names):

☐ Does _____ to _____Plaintiff, a recreational user, was ☐ an invited guest ☐ a paying guest.

Prem.L-4. ☐ **Count Three—Dangerous Condition of Public Property** The defendants who owned public property on which a dangerous condition existed were (names):

☐ Does _____ to _____

- a. ☐ The defendant public entity had ☐ actual ☐ constructive notice of the existence of the dangerous condition in sufficient time prior to the injury to have corrected it.
- b. ☐ The condition was created by employees of the defendant public entity.

Prem.L-5. a. ☒ **Allegations about Other Defendants** The defendants who were the agents and employees of the other defendants and acted within the scope of the agency were (names):

☒ Does 1 to 10

- b. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for their liability are ☐ described in attachment Prem.L-5.b ☐ as follows (names):

1 GUILLERMO MARRERO (Bar No. 099056)
2 JOSHUA J. RICHMAN (Bar No. 243147)
3 **INTERNATIONAL PRACTICE GROUP**
4 A Professional Corporation
5 1350 Columbia Street, Suite 500
6 San Diego, California 92101
7 Tel (619) 515-1480
8 Fax (619) 515-1481

9 Attorneys for Defendant
10 SEA WORLD, INC.

11
12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF SAN DIEGO

14 ADAM CANTER,
15
16 Plaintiff,
17
18 v.
19 SEA WORLD, INC.,
20 Defendant.

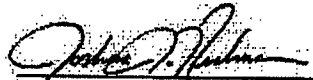
CASE NO. 37-2007-00075694-CU-PO-CTL
REQUEST FOR STATEMENT OF DAMAGES

Action Filed: September 26, 2007
Judge: Hon. Jay M. Bloom
Dept.: C-70

21 Defendant Sea World, Inc. ("Defendant") hereby requests that plaintiff Adam Canter
22 ("Plaintiff") serve on it a statement setting forth the nature and amount of damages being sought
23 in his Plaintiff complaint within fifteen (15) days of the date of service of this request to counsel
24 for Defendant, INTERNATIONAL PRACTICE GROUP, P.C., located at 1350 Columbia Street,
25 Suite 500, San Diego, CA 92101. Defendant makes this request pursuant to California Code of
26 Civil Procedure § 425.11.

27 Date: October 16, 2007

28 INTERNATIONAL PRACTICE GROUP
A PROFESSIONAL CORPORATION
BY



GUILLERMO MARRERO
JOSHUA J. RICHMAN
Attorneys for Defendants

Attorney of Party Without Attorney (Name and Address)		Telephone No:		FOR COURT USE ONLY	
International Practice Group 1350 Columbia Street San Diego CA Ste. 500 Attorney For: DEFENDANT		619 515-1488			
		Reference Number: 86662		35949	
Superior Court State of California in and for the County of San Diego Central Division (Unlimited)					
Plaintiff/Petitioner: Canter		Hearing Date:		Time:	
Defendant/Respondent: Sea World, Inc.		Dept./Div.:		Case Number:	
PROOF OF SERVICE				37-2007-75694-CU-PO-CTL	

DOCUMENTS:

Request for Statement of Damages

On 10/15/2007 at 4:30pm, I served the above entitled documents by personally delivering them to the person(s) indicated below in the manner as provided by Civil Code of Procedure 1011.

Entity: Steven M. O'Neal, Esq.

Address: 2044 1st Avenue Ste. 200
San Diego, CA 92101.

by delivering the copies to: Monica Marin, Title: Receptionist
Description:

Date Served: 10/15/2007

Time Served: 4:30pm

7. Person Serving (name, address, and telephone No.):

Central Attorney Service, Inc.

1241 State Street
San Diego, CA 92101
(619)233-3344 Fax (619)233-3350

Fee for service: \$ 35.00

Glenn Jakstis

Registered California process server:

(i) owner

(ii) Registration No.: 1025

(iii) County: San Diego

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 10/17/2007

CIV-050

- DO NOT FILE WITH THE COURT -
-UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Steven M. O'Neal (State Bar # 62315) Law Office of Steven M. O'Neal 2044 First Avenue, #200 San Diego, CA 92101 ATTORNEY FOR (name): Adam Canter, Plaintiff		TELEPHONE NO.: (619) 239-0500 FAX NO.: (619) 233-4516	FOR COURT USE ONLY CASE NUMBER: 37-2007-00075694-CU-PO-CTL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central			
PLAINTIFF: Adam Canter DEFENDANT: Sea World, Inc.			
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)			

To (name of one defendant only): Sea World, Inc.
 Plaintiff (name of one plaintiff only): Adam Canter
 seeks damages in the above-entitled action, as follows:

1. General damages

AMOUNT

- | | |
|---------------------------------------------------------------------------------------------------|---------------------|
| a. <input checked="" type="checkbox"/> Pain, suffering, and inconvenience | \$ <u>100,000 A</u> |
| b. <input checked="" type="checkbox"/> Emotional distress | \$ <u>100,000</u> |
| c. <input type="checkbox"/> Loss of consortium | \$ _____ |
| d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only) | \$ _____ |
| e. <input type="checkbox"/> Other (specify) | \$ _____ |
| f. <input type="checkbox"/> Other (specify) | \$ _____ |
| g. <input type="checkbox"/> Continued on Attachment 1.g. | |

2. Special damages

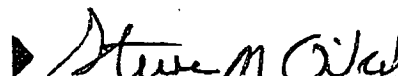
- | | |
|----------------------------------------------------------------------------------------------------------------|--------------------------|
| a. <input checked="" type="checkbox"/> Medical expenses (to date) | \$ <u>10,000 APPROX.</u> |
| b. <input checked="" type="checkbox"/> Future medical expenses (present value) | \$ <u>UNKNOWN</u> |
| c. <input checked="" type="checkbox"/> Loss of earnings (to date) | \$ <u>10,000 APPROX.</u> |
| d. <input checked="" type="checkbox"/> Loss of future earning capacity (present value) | \$ <u>UNKNOWN</u> |
| e. <input type="checkbox"/> Property damage | \$ _____ |
| f. <input type="checkbox"/> Funeral expenses (wrongful death actions only) | \$ _____ |
| g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only) | \$ _____ |
| h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only) | \$ _____ |
| i. <input type="checkbox"/> Other (specify) | \$ _____ |
| j. <input type="checkbox"/> Other (specify) | \$ _____ |
| k. <input type="checkbox"/> Continued on Attachment 2.k. | |

3. ☐ Punitive damages: Plaintiff reserves the right to seek punitive damages in the amount of (specify).. \$ _____
 when pursuing a judgment in the suit filed against you.

Date:

Steven M. O'Neal

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

(Proof of service on reverse)

Page 1 of 2

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

3 CANTER v. SEA WORLD, INC.

4 Case No.: 37-2007-00075694-CU-PO-CTL

5 I am a resident of the county aforesaid; I am over the age of eighteen years and
6 not a party to the within entitled action; my business address is 2044 First Avenue, Suite
200, San Diego, California 92101.

7 On the date noted below, I served the within **STATEMENT OF DAMAGES** on
8 the interested parties listed below:

9 Attorneys for Defendant, Sea World, Inc.:


10 Joshua J. Richman, Esq.
11 International Practice Group
A Professional Corporation
12 1350 Columbia Street, #500
San Diego, CA 92101
13 (619) 515-1480
(619) 515-1481 - fax,

14 [X] BY MAIL - as follows: I am "readily familiar" with the firm's practice of
collection and processing correspondence for mailing. Under that practice, it would be
15 deposited with the United States Postal Service on that same day with postage thereon
fully prepaid at San Diego, California, in the ordinary course of business. I am aware
16 that on motion of the party served, service is presumed invalid if postal cancellation date
or postage meter date is more than one day after date of deposit for mailing in affidavit.

17 [] BY FACSIMILE - I personally sent to the addressee's facsimile number as
listed above a true copy of the above-described documents. Thereafter, I sent a true
18 copy in a sealed envelope addressed and mailed as indicated above.

19 [] BY PERSONAL DELIVERY - I personally served on the person listed
above a true copy of the above-described documents.
20

21 I declare, under penalty of perjury under the laws of the State of California that
the foregoing is true and correct. Executed on October 8, 2007, San Diego, California.
22

23 
24 ROBIN O'NEAL, Declarant
25

PROOF OF SERVICE

GUILLERMO MARRERO (Bar No. 099056)
 JOSHUA J. RICHMAN (Bar No. 243147)
 INTERNATIONAL PRACTICE GROUP
 A Professional Corporation
 1350 Columbia Street, Suite 500
 San Diego, California 92101
 Tel (619) 515-1480
 Fax (619) 515-1481

Attorneys for Defendant
 SEA WORLD, INC.

FILED
 CIVIL BUSINESS OFFICE 16
 CENTRAL DIVISION

07 OCT 31 PM 2:00

SUPERIOR COURT
 SAN DIEGO COUNTY, CA

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN DIEGO

ADAM CANTER,

Plaintiff,

v.

SEA WORLD, INC.,

Defendant.

CASE NO. 37-2007-00075694-CU-PO-CTL

ANSWER

Action Filed: September 26, 2007
 Judge: Hon. Jay M. Bloom
 Dept.: C-70

Defendant SEA WORLD, INC. ("Defendant") answers ADAM CANTER'S ("Plaintiff")
 unverified complaint as follows:

GENERAL DENIAL

Under the provisions of Section 431.30 of the Code of Civil Procedure of the State of
 California, Defendant denies generally, each and every allegation of Plaintiff's complaint in its
 entirety, including every purported cause of action contained in Plaintiff's complaint, and denies
 that Plaintiff has or will sustain injuries or damages in the sum or sums alleged, or in any other
 sum or sums, or at all.

Further, Defendant denies that Plaintiff has sustained or will sustain, any injury, damage,
 or loss, if any, by reason of any acts, omissions, alleged fault or negligence on the part of
 Defendant upon which to base any cause of action whatsoever, including all causes of action pled
 by Plaintiff in his complaint.

1 SEPARATE AFFIRMATIVE DEFENSES

2 As a further answer to Plaintiff's complaint, Defendant asserts the following affirmative
3 defenses:

4 I.

5 FAILURE TO STATE CAUSE OF ACTION

6 (TO ALL CAUSES OF ACTION)

7 Plaintiff's complaint fails to state a claim upon which relief can be granted and/or facts
8 sufficient to constitute any valid cause of action against this answering Defendant.

9 II.

10 FAILURE TO MITIGATE DAMAGES

11 (TO ALL CAUSES OF ACTION)

12 Defendant is informed and believes, and thereon alleges, that Plaintiff has failed to act
13 reasonably to mitigate the damages he has alleged.

14 III.

15 ASSUMPTION OF RISK

16 (TO ALL CAUSES OF ACTION)

17 Defendant is informed and believes, and thereon alleges, that any damages suffered by
18 Plaintiff were proximately caused by a risk, which the Plaintiff by his actions voluntarily
19 assumed.

20 IV.

21 FAIR RESPONSIBILITY ACT OF 1986

22 (AS TO ALL CAUSES OF ACTION)

23 Without admitting Defendant has the burden of proof on this or any related issue,
24 Defendant denies any liability to Plaintiff and further alleges that under the Fair Responsibility
25 Act of 1986, liability for general damages, if any, is limited to each person, party or entity's
26 proportionate share of liability or responsibility, if any.

27 ///

28 ///

V.

NEGLIGENCE OF THIRD PARTIES

(AS TO ALL CAUSES OF ACTION)

Defendant alleges that at the time and place referred to in the complaint, a third party or parties acted negligently so as to cause the accident and alleged injuries referred to in the complaint, and that the negligence proximately caused and/or contributed to Plaintiff's damages, if any.

VI.

COMPARATIVE NEGLIGENCE

(AS TO ALL CAUSES OF ACTION)

Defendant alleges that at the time and place referred to in the complaint, Plaintiff negligently conducted himself so as to cause the accident referred to in the complaint.

VII.

RIGHT TO ASSERT ADDITIONAL AFFIRMATIVE DEFENSES

(TO ALL CAUSES OF ACTION)

Defendant reserves the right to amend this response and assert additional affirmative defenses and reserves the right to cross-claim against Plaintiff, any other named defendant, or any other third parties.

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1 PRAYER

2 WHEREFORE, the Defendant prays for judgment as follows:

- 3 1. That Plaintiff take nothing by his complaint and not be granted any relief;
4 2. That Plaintiff's complaint be dismissed with prejudice;
5 3. That Defendant be awarded costs of suit, including attorneys fees, incurred herein;
6 and
7 4. For such other and further relief as this court may deem proper.

8 DEMAND FOR JURY TRIAL

9 Defendant hereby demands trial by jury.

10
11 Dated: October 31, 2007

12 INTERNATIONAL PRACTICE GROUP,
13 A PROFESSIONAL CORPORATION

14
15 By 

16 GUILLERMO MARRERO

17 JOSHUA J. RICHMAN

18 Attorneys for Defendant SEA WORLD, INC.
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28

1 GUILLERMO MARRERO (Bar No. 099056)
2 JOSHUA J. RICHMAN (Bar No. 243147)
3 INTERNATIONAL PRACTICE GROUP
4 A Professional Corporation
5 1350 Columbia Street, Suite 500
6 San Diego, California 92101
7 Tel (619) 515-1480
8 Fax (619) 515-1481

9 Attorneys for Defendant
10 SEA WORLD, INC.

FILED
CIVIL BUSINESS OFFICE 16
CENTRAL DIVISION

07 OCT 31 PM 2:00

CLERK OF SUPERIOR COURT
SAN DIEGO COUNTY, CA

11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SAN DIEGO

13 ADAM CANTER,
14 Plaintiff,

15 v.

16 SEA WORLD, INC.,
17 Defendant.

CASE NO. 37-2007-00075694-CU-PO-CTL

PROOF OF SERVICE OF ANSWER

Action Filed: September 26, 2007
Judge: Hon. Jay M. Bloom
Dept.: C-70

18 I, Kristina De la Rosa, certify and declare as follows:

19 I am over the age of 18 years and not a party to this action.

20 My business address is 1350 Columbia Street, Suite 500, San Diego, CA 92101, which is
21 located in the city, county and state where the mailing described below took place.

22 **SERVICE BY MAIL:** On October 31, 2007, I served the documents listed in Appendix
23 A, attached to this Proof of Service, by enclosing them in an envelope and depositing the sealed
24 envelope with the United States Postal Service with the postage fully prepaid. The envelope was
25 addressed and mailed as follows:

26 Steven M. O'Neal, Esq.

27 2044 1st Avenue, Suite 200

28 San Diego, CA 92101

I declare under penalty of perjury that the foregoing is true and correct.

//

1 Executed on October 31, 2007


Kristina De La Rosa

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5 Appendix A

6 The documents that were served are as follows:

7 1. ANSWER
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FILED

07 NOV 21 PM 2:13

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

1 GUILLERMO MARRERO (Bar No. 099056)
(gmarrero@ipglaw.com)

2 JOSHUA J. RICHMAN (Bar No. 243147)
(jrichman@ipglaw.com)

3 **INTERNATIONAL PRACTICE GROUP**

A Professional Corporation

4 1350 Columbia Street, Suite 500

San Diego, California 92101

5 Tel (619) 515-1480

Fax (619) 515-1481

6 Attorneys for Defendant

7 SEA WORLD, INC.

8 UNITED STATES DISTRICT COURT FOR THE
9 SOUTHERN DISTRICT OF CALIFORNIA

10 ADAM CANTER,

11 Plaintiff,

12 v.

13 SEA WORLD, INC.,

14 Defendant.

CAS 07CV 2227 WQH (POR)

CERTIFICATE OF SERVICE

16 I, Kristina De La Rosa, certify and declare as follows:

17 I am over the age of 18 years and not a party to this action.

18 My business address is 1350 Columbia Street, Suite 1520, San Diego, CA 92101, which is
19 located in the city, county and state where the mailing described below took place.

20 On November 21, 2007, I deposited a sealed envelope with the postage fully prepaid in
21 the United States Mail at my business address a copy of the following documents:

- 22 1. Notice to Adverse Party of Removal to Federal Court
- 23 2. Notice of Removal of Action
- 24 3. Declaration of Joshua J. Richman in Support of Notice of Removal of Action

25 The envelope was addressed and mailed as follows:

26 Steven M. O'Neal

27 2044 1st Avenue, Suite 500

28 San Diego, CA 92101

-1-

1 I declare under penalty of perjury that the foregoing is true and correct.

2 Executed on November 21, 2007



Kristina De La Rosa

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CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Adam Canter (b) County of Residence of First Listed Plaintiff <u>San Diego</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorney's (Firm Name, Address, and Telephone Number) Law Offices of Steven M. O'Neal, 619.239.0500 Steven M. O'Neal, 2044 1st Avenue, Suite 500, San Diego, CA 92101	DEFENDANTS Sea World, Inc. CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA County of Residence of First Listed Defendant <u>PR</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND. 07CV 2227 WQH (POR) Attorneys (If Known) IPG, 1350 Columbia Street, San Diego, CA 92101, 619.515.1480
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;">PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:33%;">PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
Citizen of This State	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF DEF <input type="checkbox"/> 4 <input type="checkbox"/> 4										
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5										
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6										

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)						
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>28 USC 1332</u> Brief description of cause: <u>Negligence</u>
----------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE 11/21/2007	SIGNATURE OF ATTORNEY OF RECORD 
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FOR OFFICE USE ONLY			
RECEIPT # <u>144750</u>	AMOUNT <u>\$350</u>	APPLYING IFP _____	JUDGE _____ MAG. JUDGE _____

Sei 11/21/07

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

144756 - SH

**November 21, 2007
14:12:05**

**Civ Fil Non-Pris
07-02227**

Judge.: WILLIAM Q HAYES

Amount.: \$350.00 CK

Check#.: BC7091

Total-> \$350.00

FROM: CANTER V. SEA WORLD INC